



MEMORANDUM

TO: Heritage Markham Committee

FROM: Regan Hutcheson, Manager-Heritage Planning

DATE: July 8, 2020

SUBJECT: City of Markham Temporary Commercial Patio Expansion Program
COVID 19

Project: Temporary Commercial Patio Expansions

Background:

- On June 11, 2020, Markham Council voted unanimously to approve a Temporary Use Zoning By-law to permit the temporary expansion of existing outdoor patios accessory to restaurants, bars and breweries, subject to conditions. Due to appeal timelines set by the *Planning Act*, this by-law is anticipated to come into force on July 2nd, and will expire on December 31st, 2020.
- The By-law temporarily removes the requirement for providing parking and allows additional portions of a property to be used as an outdoor patio. These expansions however are not permitted to occupy accessible parking spaces or required works such as ramps, steps, walkways, or required soft landscaping areas. Outdoor patio expansions are not permitted to block emergency access points or equipment.
- There are potentially three (3) components that regulate outdoor patio expansions in Markham:
 1. A Site Plan Control application regulates the laying out for patios on private property which must comply with applicable zoning standards. This submission forms a site plan control application for the patio;
 2. A Road Occupancy Permit or Permission to Enter for outdoor patios located within a municipal boulevard or City owned property; and,
 3. A “liquor license” for an outdoor patio that serves alcohol
- A new application form is intended to guide applicants through the (3) components. For any of these three (3) application types, an applicant will be required to submit a site plan to the City showing the location of the proposed outdoor patio on the site and, or, the

relationship of the boulevard patio to the site. The site plan must also show the dimensions of the outdoor patio, existing buildings, and other information.

- Approval of a new outdoor patio or patio extension is subject to revocation (cancellation) or modification as may be required to ensure compliance with the Building Code, Fire Code, or any other applicable legislation, including emergency legislation implemented to address the COVID-19 pandemic. The Chief Building Official, Fire Chief, Director of Operations, Director of Planning and Urban Design, Manager of By-law Enforcement, City Clerk, or their designates, are authorized to require removal or modification of a patio extension to ensure compliance with applicable law or other safety requirement. Businesses are also required to implement all public health requirements and strongly encouraged to implement public health recommendations as related to the COVID-19 pandemic. Additional resources can be found on the York Region Health Department website here: York Region Health.
- Heritage resources are not to be damaged in establishing a temporary patio, or patio expansion

Status/ Staff Comment

- Heritage Section staff are reviewing submissions that are in heritage conservation districts to ensure heritage resources are not negatively impacted. As the patios are temporary, staff are being more flexible regarding issues of fence design, patio furniture and lighting.
- Schedule 1 – Attached indicates the site standards applicable to all temporary patios installed under this program
- Recent applications in Unionville include 202 Main Street, 159 Main Street and 189 Main Street.

Suggested Recommendation for Heritage Markham

That Heritage Markham Committee receive as information the information on the temporary commercial patio program (July – December 2020)

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Schedule 1

Site Standards applicable to All Patios on Private or City Property

Approval of a new temporary outdoor patio, or temporary expansion to an existing outdoor patio on private or City property are subject to the following standards:

1. Outdoor patios are only permitted accessory to an existing permitted restaurant, bar, or brewery
2. Subject to the standards contained herein, there is no restriction on the maximum physical area of an outdoor patio, and no additional parking spaces are required for a temporary patio area

Note: Hard landscaping or other existing patio areas may be used for patio expansions. The provision of additional parking spaces for an expanded patio is not required.

3. Notwithstanding #2 above, an outdoor patio located within a parking area, parking space or drive aisle shall occupy no more than the greater of:
 - a. 4 parking spaces, or
 - b. 33% of the provided parking space for the use

Note: Generally speaking, standalone restaurants (restaurants that are not part of a plaza) are required to provide one parking space for every 9 square metres of floor area, and restaurants within a multi-tenant building are required to provide one parking space for every 18.5 square metres of floor area. Applicants can confirm parking standards with Planning Staff by email patio@markham.ca

4. An outdoor patio is not permitted to occupy accessible parking spaces, and may not obstruct any accessible routes.

Note: Existing accessible parking spaces should already be clearly marked on site. A clear path of travel measuring 1.2 metres (4 feet) wide must be maintained from the building, through any patio area, to the parking area, and accessible parking spaces.

5. An outdoor patio shall not be used to provide entertainment such as performances, music and dancing.

Note: Operators should also be aware of the City's Noise By-law: Noise By-law

6. An outdoor patio may be located in a yard abutting a residential zone when located in an existing parking area, however, all parts of an outdoor patio must be setback a minimum of 11.8 metres (38 feet 9") from any residential zone.

7. An outdoor patio cannot occupy any required fire route and cannot extend in front of a Fire Department connection or hydrant.

Note: In addition to public streets, fire routes can be located on private property, and are used to provide access for emergency vehicles from the street to a building.

8. An access path of travel of 1.2 metres (4 feet) wide must be maintained in the patio area to the egress gate/exit.

Where a combined area of the existing and temporary patio exceed 60 persons, two egress gates/exits are to be provided at opposite ends of the patio. An access path of travel measuring 1.2 metres (4 feet) in width must be maintained between the two gates.

9. Cooking of food is not permitted on temporary patios.

10. A fire extinguisher (minimum 2A-10BC) must be available within the patio area where it is conspicuous and accessible.

11. CSA-certified electric heaters and Technical Standards and Safety Authority certified propane or natural gas patio heaters are permitted where located at least 3m (10ft) away from tree branches, operated per the manufacturer's instructions. Solid, open flames, gel- or liquid-fuel fire features are not permitted.

Note: approved heaters are only permitted on private property

12. The construction of platforms, tents, or canopies are not permitted in temporary patio areas.

13. At no time shall the occupancy of an existing establishment and any existing patio, be exceeded through the establishment of a temporary patio:

a. For non-licensed establishments, the number of persons occupying the temporary patio shall not exceed the posted occupancy of the establishment

b. For licensed establishments that do not have an existing licensed patio, the number of persons occupying the temporary patio shall not exceed the posted occupancy of the indoor area indicated on the liquor license and Fire Department occupant load card

c. For licensed establishments that have an existing licensed patio, the number of persons occupying the combined area of the existing and temporary patio shall not exceed the posted occupancy of the indoor area indicated on your liquor license and Fire Department occupant load card

14. The establishment of a patio or patio extension shall not damage, or cause to undermine any Heritage Resource.